

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the
Substantively Consolidated SIPA Liquidation of
Bernard L. Madoff Investment Securities LLC
and the Chapter 7 Estate of Bernard L. Madoff,

Plaintiff,

v.

BANK VONTobel AG f/k/a BANK J.
VONTobel & CO. AG and VONTobel
ASSET MANAGEMENT INC.,

Defendants.

Adv. Pro. No. 08-01789 (CGM)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 12-01202 (CGM)

STIPULATION AND ORDER TO WAIVE ARGUMENT

Irving H. Picard (the “Trustee”), as trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC, under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-*III*, and the estate of Bernard L. Madoff, under Chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 701-784, and defendants Bank Vontobel AG f/k/a Bank J. Vontobel & Co. AG and Vontobel Asset Management Inc. (“Defendants,” and

together with the Trustee, the “Parties”), by and through their respective undersigned counsel, stipulate and agree as follows:

WHEREAS, on July 8, 2022, Defendants filed a motion to dismiss the Trustee’s complaint (the “Motion”) [ECF No. 114], with a supporting memorandum of law [ECF No. 115] and the Declaration of Gregory F. Hauser [ECF No. 116]; on September 8, 2022, the Trustee filed an Opposition to Defendants’ Motion [ECF No. 122] and the supporting Declaration of Chardae C. Charlemagne [ECF No. 123] (the “Opposition”); and on October 10, 2022, Defendants filed a reply in further support of its Motion [ECF No. 125] (the “Reply”, and together with the Motion and Opposition, the “Briefing”);

WHEREAS, the Defendants noticed a hearing to consider the Motion to be held on October 19, 2022, at 10:00 am; and

WHEREAS, the Parties have conferred and agree to rest on their papers and waive oral argument on the Motion.

IT IS HEREBY STIPULATED AND AGREED, by the Parties, and **SO ORDERED**, by the Court:

1. The Court will not hear oral argument on the Motion, and thus the hearing scheduled for 10:00 am on October 19, 2022 to consider the Motion is hereby cancelled and removed from the Court’s calendar.
2. The Parties request that the Court issue its ruling based on the Briefing.
3. The Parties otherwise reserve all rights, arguments, objections, and defenses they may have, and their entry into this Stipulation shall not impair or otherwise affect any such rights, arguments, objections, and defenses.

Dated: October 14, 2022
New York, New York

BAKER & HOSTETLER LLP

By: /s/ Chardaie Charlemagne
45 Rockefeller Plaza
New York, New York 10111
Telephone: 212.589.4200
Facsimile: 212.589.4201
David J. Sheehan
Email: dsheehan@bakerlaw.com
Amy Vanderwal
Email: avanderwal@bakerlaw.com
Chardaie C. Charlemagne
Email: ccharlemagne@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,
Trustee for the Substantively Consolidated
SIPA Liquidation of Bernard L. Madoff
Investment Securities LLC and the Chapter 7
Estate of Bernard L. Madoff*

WUERSCH & GERING LLP

By: /s/ Gregory Hauser
100 Wall Street, 10th Floor
New York, New York 10005
Telephone: 212.509.5050
Gregory F. Hauser
Email: gregory.hauser@wg-law.com

*Attorneys for Defendants Bank Vontobel AG
f/k/a Bank J. Vontobel & Co. AG and Vontobel Asset
Management Inc.*

Dated: October 14, 2022
Poughkeepsie, New York



/s/ Cecelia G. Morris

Hon. Cecelia G. Morris
U.S. Bankruptcy Judge